IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 17272 of 1993

Between:

M/s. Indexport Ltd., Rep. by Sri K. Anand, Authorised Signatory
Walker Town, Secunderabad

..... PETITIONER

AND

1 The State of A.P. rep. by Secretary, Revenue Dept., Secretariat Buildings, Hyderabad
2 The Commercial Tax Officer, Company Circle, Secunderabad Division,

Secunderabad-A.P.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records and issue an appropriate writ, order or direction holding that G.O.Ms.No.797 Revenue (CT-II) dt: 20-8-1993 is effective only from the date of its publication in the A.P. Gazette i.e. 4-9-1993 and not retrospectively from 1-8-1993.

Counsel for the Petitioner:MR.T.RAMAM, Advocate.

Counsel for the Respondents : Spl. GP FOR TAXES.

The Court at the stage of admission, made the following :

ORDER : (per Sri Bilal Nazki, J)

The only grievance of the petitioner is that G.O.Ms.No.797 Revenue (CT-II), dated 20th August, 1993 could have not been given retrospective effect from 1st of August, 1993. The notification itself was published on 4th of September, 1993 in the official Gazette. Both sides contend that the controversy is covered by the judgments reported in *The Yemmiganuru Spinning Mills Ltd. & another Vs. State of Andhra Pradesh & others* and *B.P.L. Limited, Hyderabad Vs. State of Andhra Pradesh & another*. Both these judgments accept the principle that a delegatee cannot make a Rule or issue a notification with retrospective effect. The notification is issued by the Government as a delegatee.

In these circumstances, the Writ Petition is allowed and it is held that G.O.Ms.No.797 Revenue (CT-II), dated 20th August, 1993 would be effective only with effect from 4th of September, 1993 and not with effect from 1st of August, 1993.

_____

(BILAL NAZKI, J)

26th August, 2004.

_____

(P.S.NARAYANA,J)

ajr

To

1 The Secretary, Revenue Dept., Government of A.P., Secretariat Buildings, Hyderabad
2 The Commercial Tax Officer, Company Circle, Secunderabad Division,

Secunderabad-A.P.

3 Two C.Cs. to the Spl. GP for Taxes, High Court buildings,

Hyderabad (O.U.T).

4 Two C.D. copies.